

EXHIBIT 9

***UNREDACTED VERSION
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TO BE SEALED***

EXHIBIT 9

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION
Case No. 17-cv-00939-WHA

-----x
WAYMO LLC,

Plaintiff,

- against -

UBER TECHNOLOGIES, INC.; OTTOMOTTO, LLC;
OTTO TRUCKING LLC,

Defendants.
-----x

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Videotaped 30(b)(6) Deposition
of GARY BROWN, taken by Defendants, held
at the offices of Morrison & Foerster LLP,
250 West 55th Street, at 9:59 a.m. on August
8, 2017, New York, New York, before Jineen
Pavesi, a Registered Professional Reporter,
Registered Merit Reporter, Certified Realtime
Reporter and Notary Public of the State of New York.

Job No. 2671217A
Pages 1 - 305

1 SVN log in the ordinary course of 10:51:23AM
2 business, is that correct? 10:51:25AM
3 MR. BAKER: Objection to form. 10:51:29AM
4 A. That is correct. 10:51:31AM
5 Q. So as part of Waymo's 10:51:34AM
6 investigation, someone gave you a copy of 10:51:35AM
7 the SVN log, is that correct? 10:51:37AM
8 A. That is correct. 10:51:41AM
9 Q. And that person, the person who 10:51:44AM
10 gave you a copy of the SVN log was 10:51:46AM
11 Mr. Jack Brown, correct? 10:51:49AM
12 A. No. 10:51:53AM
13 Q. Who gave you a copy of the SVN 10:51:54AM
14 log? 10:51:56AM
15 MR. BAKER: I am going to 10:52:00AM
16 caution the witness not to reveal the 10:52:00AM
17 substance of any attorney-client 10:52:03AM
18 communication, but you can give a name. 10:52:04AM
19 A. Tom Gorman. 10:52:07AM
20 Q. When did Mr. Gorman give you 10:52:08AM
21 the SVN log? 10:52:10AM
22 MR. BAKER: You can give a 10:52:11AM
23 date. 10:52:12AM
24 A. February 21st, 20th or 21st, 10:52:13AM
25 2017. 10:52:25AM

1	A.	No.	12:16:53PM
2	Q.	And nobody asked you to	12:16:54PM
3		inquire, to conduct a forensic review of	12:16:58PM
4		that device to determine if he did	12:17:00PM
5		anything improper with it, correct?	12:17:07PM
6	A.	That is correct, but with the	12:17:13PM
7		caveat that the lack of analysis of	12:17:17PM
8		another machine does not wash away the	12:17:22PM
9		wrongdoings on another machine, that's no	12:17:25PM
10		indication of not doing something.	12:17:28PM
11	Q.	In order to determine the full	12:17:35PM
12		scope of potential wrongdoing, in your	12:17:39PM
13		opinion should Waymo have conducted a	12:17:43PM
14		forensic investigation of the	12:17:46PM
15		Hewlett-Packard workstation?	12:17:47PM
16		MR. BAKER: Objection to form.	12:17:49PM
17	A.	All feasible rocks should be	12:17:57PM
18		turned over, but there have been multiple	12:18:02PM
19		occurrences where inventory management	12:18:07PM
20		personnel reimaged devices before forensic	12:18:12PM
21		analysis could take place.	12:18:18PM
22	Q.	And in your opinion, one	12:18:22PM
23		feasible rock that should have been turned	12:18:29PM
24		over was a review of the Hewlett-Packard	12:18:30PM
25		workstation assigned to Mr. Levandowski,	12:18:34PM

1 is that correct? 12:18:37PM
2 MR. BAKER: Objection to form. 12:18:37PM
3 A. As a forensic analyst, the more 12:18:42PM
4 information, the better. 12:18:44PM
5 But as I said before, it 12:18:47PM
6 doesn't undo other indicators that were 12:18:50PM
7 positively found. 12:18:55PM
8 Q. As a forensic analyst, wouldn't 12:19:02PM
9 you want to know if the card reader was 12:19:07PM
10 attached to the workstation? 12:19:09PM
11 MR. BAKER: Objection to form. 12:19:11PM
12 A. Yes. 12:19:18PM
13 Q. But you don't know the answer 12:19:19PM
14 to that question, right? 12:19:21PM
15 A. Not currently. 12:19:24PM
16 Q. Waymo would never know the 12:19:26PM
17 answer to that question, correct? 12:19:29PM
18 MR. BAKER: Objection to form. 12:19:31PM
19 A. That's uncertain. 12:19:43PM
20 Q. Why is that uncertain? 12:19:45PM
21 A. Depending on retention and host 12:19:50PM
22 monitoring agents, it could potentially be 12:20:00PM
23 determined whether some classes of USB 12:20:08PM
24 devices were connected to these machines, 12:20:12PM
25 but I also would not feel comfortable 12:20:16PM

1 true? 04:06:20PM
2 A. It is what I was told. 04:06:23PM
3 Q. If you can go back to your 04:06:26PM
4 30(b)(6) notice, topic 8, do you see in 04:06:27PM
5 there there is a reference to SVN logs as 04:06:35PM
6 described by Mr. Nardinelli in his July 04:06:40PM
7 18, 2017, e-mail? 04:06:44PM
8 A. I see that. 04:06:50PM
9 Q. Did you look at that e-mail in 04:06:50PM
10 preparing for your deposition today? 04:06:52PM
11 A. Do I have access to it? 04:06:55PM
12 MR. BAKER: You can answer that 04:07:06PM
13 yes or no. 04:07:07PM
14 A. No. 04:07:07PM
15 MR. CHATTERJEE: Why don't we 04:07:09PM
16 mark that as 1317. 04:07:12PM
17 (Exhibit 1317, e-mail from 04:07:12PM
18 Jeff Nardinelli, was marked for 04:07:12PM
19 identification, as of this date.) 04:07:30PM
20 Q. What I've handed you as Exhibit 04:07:30PM
21 1317 is an e-mail from Jeff Nardinelli, 04:07:33PM
22 Quinn Emanuel, counsel for Waymo, to a 04:07:36PM
23 whole ton of people, some on the other 04:07:38PM
24 side of the case, some on the same side of 04:07:41PM
25 their case, and if you look at the fourth 04:07:43PM

1 paragraph in Mr. Nardinelli's e-mail, he 04:07:47PM
2 says that "On September 19, 2016, Waymo 04:07:53PM
3 pulled SVN log data, which dated back to 04:07:57PM
4 September 19, 2015, due to the 52-week 04:08:00PM
5 retention in place." 04:08:04PM
6 Do you see that? 04:08:06PM
7 A. I do see that. 04:08:10PM
8 Q. Are you aware of any 52-week 04:08:11PM
9 retention for the SVN log data? 04:08:13PM
10 A. I believe I said retention was 04:08:22PM
11 set to a year and then that was suspended 04:08:23PM
12 as of fall 2016, to my knowledge; I 04:08:27PM
13 believe I said that earlier in this 04:08:29PM
14 deposition, way earlier. 04:08:35PM
15 Q. So I asked you all of the log 04:08:37PM
16 data is available today and you said to my 04:08:39PM
17 knowledge, yes; was that a correct or 04:08:41PM
18 incorrect statement? 04:08:42PM
19 A. I thought it was correct. 04:08:48PM
20 Q. So do you believe it to be 04:08:49PM
21 correct or do you believe Mr. Nardinelli's 04:08:50PM
22 comment to be correct? 04:08:52PM
23 MR. BAKER: Objection to form. 04:08:53PM
24 A. Perhaps -- 04:09:01PM
25 THE WITNESS: I have a privilege 04:09:08PM

1 question on this thing. 04:09:09PM
2 MR. BAKER: Sure. 04:09:10PM
3 THE VIDEO TECHNICIAN: Time is 04:09:12PM
4 4:09 p.m. 04:09:13PM
5 We're off the record. 04:09:13PM
6 (Witness and counsel left the 04:09:15PM
7 hearing room to confer.) 04:09:16PM
8 (Pause.) 04:09:16PM
9 (Witness and counsel returned 04:09:16PM
10 to the hearing room.) 04:23:09PM
11 THE VIDEO TECHNICIAN: Time is 04:23:09PM
12 4:23 p.m. 04:23:27PM
13 We are on the record. 04:23:28PM
14 BY MR. CHATTERJEE: 04:23:29PM
15 Q. I think the question pending 04:23:33PM
16 was do you believe your prior testimony to 04:23:34PM
17 be correct or do you believe 04:23:38PM
18 Mr. Nardinelli's comment to be correct 04:23:39PM
19 with respect to that first sentence of the 04:23:40PM
20 third paragraph? 04:23:44PM
21 A. I think I'm definitely 04:23:45PM
22 deferring to what Mr. Nardinelli said; 04:23:49PM
23 from my discussions with the Subversion 04:23:51PM
24 server administrators, I was under the 04:23:59PM
25 impression that -- when I gave that kind 04:24:01PM

1 of long sled of summer 2016, the logs were 04:24:05PM
2 pulled and coupled with the one-year 04:24:13PM
3 retention and my knowledge that the 04:24:14PM
4 Subversion server had been launched, to my 04:24:17PM
5 knowledge, I think in May or June or 04:24:19PM
6 summer of 2015, in my mind it was like, 04:24:22PM
7 oh, it goes back a year obviously to the 04:24:25PM
8 start. 04:24:28PM

9 But I definitely defer to Jeff 04:24:32PM
10 and I have never seen this document, but 04:24:34PM
11 seeing that, if he says that indefinite 04:24:37PM
12 retention was started in the early spring 04:24:43PM
13 of 2017 and not the fall of 2016, I have 04:24:47PM
14 to go with that as well, because these are 04:24:50PM
15 hard dates. 04:24:53PM

16 I was providing like three, 04:24:54PM
17 four month sleds. 04:24:56PM

18 Q. Have you done any investigation 04:24:58PM
19 into the accuracy of Mr. Nardinelli's 04:25:00PM
20 comments in this letter? 04:25:02PM

21 A. I have never seen this letter 04:25:08PM
22 until you put it in front of me. 04:25:09PM

23 Q. Who would know whether the 04:25:10PM
24 statements in Mr. Nardinelli's letter are 04:25:13PM
25 accurate or not, other than 04:25:15PM

1 Mr. Nardinelli? 04:25:20PM
2 MR. BAKER: Objection to form. 04:25:21PM
3 A. Tom Gorman. 04:25:23PM
4 Q. What about anyone at Google or 04:25:24PM
5 Waymo? 04:25:27PM
6 A. Jack Brown. 04:25:29PM
7 Q. What about Mr. Zbrozek, would 04:25:31PM
8 he know? 04:25:35PM
9 A. Possibly. 04:25:35PM
10 Q. Do you have any reason to 04:25:37PM
11 dispute that Waymo did not preserve any 04:25:40PM
12 SVN log data other than this downloading 04:25:47PM
13 behavior of December 11, 2015, for the 04:25:51PM
14 time period referenced in that fourth 04:25:54PM
15 paragraph? 04:25:57PM
16 MR. BAKER: Objection to form. 04:25:57PM
17 A. That was a very long question. 04:25:58PM
18 Can you break it down for me a 04:26:00PM
19 little bit. 04:26:04PM
20 Q. Okay. 04:26:04PM
21 That last sentence says, "No 04:26:07PM
22 other download behavior was relevant to 04:26:09PM
23 any anticipated litigation and Waymo did 04:26:11PM
24 not preserve other SVN log data at that 04:26:14PM
25 time." 04:26:18PM

1 Do you see that? 04:26:18PM
2 A. I do. 04:26:19PM
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED] 04:27:04PM
17 MR. BAKER: Objection to form. 04:27:05PM
18 A. Also, as a professional log 04:27:09PM
19 diver, I'll call myself, when we're doing 04:27:13PM
20 investigations, we don't keep things that 04:27:17PM
21 are not deemed explicitly relevant for 04:27:24PM
22 what we are trying to prove. 04:27:26PM
23 It is bad data stewardship, it 04:27:31PM
24 takes up space, and it makes noise. 04:27:34PM
25 Q. What were you asked to prove 04:27:36PM

1 here? 04:27:38PM

2 MR. BAKER: Objection, I am 04:27:39PM

3 going to caution you not to reveal the 04:27:43PM

4 substance of any attorney-client 04:27:44PM

5 communications. 04:27:46PM

6 If you can answer that question 04:27:46PM

7 without doing that, please do. 04:27:48PM

8 A. I did not pull the SVN log 04:27:52PM

9 data, I'm just speaking to the frame of 04:27:55PM

10 mind of why the entirety of all users' 04:27:56PM

11 logs may not be present. 04:28:04PM

12 For example, in what I've 04:28:05PM

13 produced to support my declaration, I'm 04:28:07PM

14 not pulling and presenting the [REDACTED] logs 04:28:10PM

15 of any of a hundred thousand other Google 04:28:13PM

16 employees because it is simply not 04:28:16PM

17 relevant to the investigation at hand. 04:28:18PM

18 Q. That wasn't my question. 04:28:20PM

19 What were you being asked to 04:28:25PM

20 prove as part of your forensic 04:28:26PM

21 investigation? 04:28:27PM

22 MR. BAKER: Same instruction 04:28:27PM

23 and also objection to the form. 04:28:28PM

24 A. These logs showed that 14,000 04:28:33PM

25 files and change were downloaded on 04:28:36PM

C E R T I F I C A T I O N

I, Jineen Pavesi, a Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter and a Notary Public, do hereby certify that the foregoing witness, GARY BROWN, was duly sworn on the date indicated, and that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

A handwritten signature in black ink that reads "Jineen Pavesi, RPR, RMR". The signature is written in a cursive, flowing style.

JINEEN PAVESI, RPR, RMR, CRR